

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
ANNALISA RIVERA-FRANZ,

Plaintiff,

-against-

167 AVENUE B ASSOCIATES LLC and
HEKATE’S HEARTH CORP.,Defendants.
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23-CV-2532 (VSB)

ORDERVERNON S. BRODERICK, United States District Judge:

On March 24, 2023 Plaintiff Annalisa Rivera-Franz (“Plaintiff”) filed this action against Defendants 167 Avenue B Associates LLC and Hekate’s Hearth Corp. (“Defendants”). (Doc. 1.) Plaintiff obtained summonsed on March 27, 2023. (Docs. 5, 6.) To date, Plaintiff has not filed an affidavit of service or taken any other action to prosecute this case. Accordingly, it is hereby:

ORDERED that, no later than July 7, 2023, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *Guglielmo v. Pamela’s Prod., Inc.*, No. 20CV5569PGGRWL, 2021 WL 746210, at *1 (S.D.N.Y. Feb. 1, 2021), *report and recommendation adopted*, No. 20CIV5569PGGRWL, 2021 WL 3932277 (S.D.N.Y. Sept. 1, 2021) (internal quotation marks omitted). “If the plaintiff demonstrates that she was prevented from serving despite diligent attempts, court[s] weigh that diligence against the prejudice to the defendant resulting from the delay.” *Deptula v. Rosen*, 558 F. Supp. 3d 73, 87 (S.D.N.Y. 2021) (internal citations and quotation marks omitted). “An attorney’s inadvertence, neglect, mistake

or misplaced reliance does not constitute good cause.” *United States ex rel. Weiner v. Siemens AG*, No. 1:12-CV-01466-ALC, 2021 WL 3544718, at *5 (S.D.N.Y. Aug. 10, 2021) (internal quotation marks omitted). Plaintiff is warned that failure to submit a letter and to demonstrate good cause for failure to serve Defendants within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: June 23, 2023
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

VERNON S. BRODERICK
United States District Judge